

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

KEVIN DICKINSON and TROY SHAW,

Plaintiffs,

v.

CIVIL NO. 06-0931 MCA/DJS

CANTEEN CORRECTIONAL SERVICES, INC.,  
BOB CRAWFORD, GEORGE HEATH, HARRY  
TIPTON, RON TORRES, FRANK VALDEZ, DOUG  
ROBINSON, LARRY COOK, CORRECTIONAL  
MEDICAL SERVICES, INC., and WILLIAM  
SHANNON,

Defendants.

**MEMORANDUM OPINION AND ORDER**

THIS MATTER is before the Court on the United States Magistrate Judge's *Proposed Findings and Recommended Disposition* ("PFRD") [Doc. 257] regarding *Defendants' Correctional Medical Services, Inc. and William Shannon's Partial Motion for Summary Judgment as to Claims Asserted by Plaintiff Kevin Dickinson* [Doc. 222]. The PFRD was filed on August 26, 2009 and recommended that the Defendants' motion be granted and the claims against those Defendants be dismissed. On September 21, 2009, after the expiration of the period provided by Fed. R. Civ. P. 72(b)(2) for filing objections, Plaintiff Dickinson, through counsel, filed a *Motion out of Time for Enlargement of Time to File Plaintiff's Objections to the Magistrate Judge's Proposed Findings and Recommended Disposition Until September 21, 2009*, [Doc. 262] *Plaintiff Dickinson's Objections to Magistrate Judge's Proposed Findings and Recommended Disposition*, [Doc. 261] and a *Motion to Stay Case Pending Discovery, and Notice of Filing of Counsel's Affidavit*. [Doc. 263] On March 4, 2010, the Magistrate Judge

granted Plaintiffs' motion for an extension of time to file objections [Doc. 269] and provisionally denied Plaintiffs motion for a stay and discovery. [Doc. 270]

The Court's review of the Magistrate Judge's PFRD is governed by 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(3). The Court "must determine de novo any part of the magistrate judge's disposition that has been properly objected to" and "may accept, reject or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." The Court, having engaged in a de novo review of the PFRD, hereby accepts it in part and rejects it in part.

The Court accepts the reasoning of the PFRD with respect to Plaintiff's First, Third, Fifth, and Seventh Causes of Action, and grants summary judgment in Defendants' favor as to these causes of action. The Court further accepts the reasoning of the PFRD with respect to Plaintiff's Sixth Cause of Action to the extent Plaintiff asserts claims for interference with Plaintiff's access to the courts and defense of charges brought against him.

The Court rejects the PFRD with respect to Plaintiff's Sixth Cause of Action to the extent Plaintiff's Sixth Cause of Action asserts a claim that Plaintiff was denied necessary medical and psychological care and treatment. The Court will deny Defendants' motion for summary judgment with respect to that part of Plaintiff's Sixth Cause of Action that asserts a claim that Defendants denied Plaintiff necessary medical and psychological care and treatment so that Plaintiff may engage in limited discovery. Exercising its authority to "receive further evidence," Rule 72(b)(3), the Court will stay this case for a period of ninety (90) days to permit Plaintiff to conduct the limited discovery described in paragraph 2 of his *Motion to Stay Case Pending Discovery*. [Doc. 263] Following the expiration of the ninety day period, Defendants may file a renewed motion for summary judgment with respect to the remainder of Plaintiff's Sixth Cause of Action.

**IT IS HEREBY ORDERED** that the *Motion for Summary Judgment by Correctional Medical Services and William Shannon as to Claims by Plaintiff Kevin Dickinson* [Doc. 222] is **granted** as to Plaintiff's First, Third, Fifth, and Seventh Causes of Action;

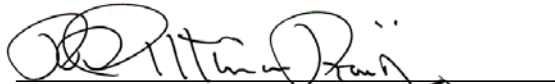
**IT IS FURTHER ORDERED** the *Motion for Summary Judgment by Correctional Medical Services and William Shannon as to Claims by Plaintiff Kevin Dickinson* [Doc. 222] is **granted** as to Plaintiff's claims for interference with Plaintiff's access to the courts and defense of charges brought against him as set out in Plaintiff's Sixth Cause of Action and is **denied** as to Plaintiff's claim that Defendants denied Plaintiff necessary medical and psychological care and treatment Defendants as set out in Plaintiff's Sixth Cause of Action.

**IT IS FURTHER ORDERED** that this case is stayed for a period of ninety (90) days from the date this Memorandum Opinion and Order is entered so that Plaintiff may conduct the limited discovery described in paragraph 2 of his *Motion to Stay Case Pending Discovery*. [Doc. 263]

**IT IS FURTHER ORDERED** that upon the expiration ninety (90) days from the date this Memorandum Opinion and Order is entered, Defendants may file a renewed motion for summary judgment as to Plaintiff's claim that Defendants denied Plaintiff necessary medical and psychological care and treatment Defendants as set out in Plaintiff's Sixth Cause of Action.

**IT IS FURTHER ORDERED** that this matter is returned to the Magistrate Judge for further proceedings consistent with this *Memorandum Opinion and Order*.

**SO ORDERED, this 18<sup>th</sup> day of March, 2010.**

  
**HON. M. CHRISTINA ARMJO**  
**UNITED STATES DISTRICT JUDGE**